

REMARKS

In the Office Action dated January 27, 2006, claims 1-8, 10-17, 19-21, and 24-27 were rejected under 35 U.S.C. § 103 over “Accessing the Campus,” by Joe Gallagher (“Gallagher”) in view of “Smart Card Policy and Administrative Guidelines,” by General Services Administration (“GSA”); claims 9 and 18 were rejected under § 103 over Gallagher in view of GSA and U.S. Patent No. 6,057,764 (Williams); claims 22, 23, and 28-30 were rejected under § 103 over Gallagher in view of GSA and U.S. Patent No. 6,633,757 (Hermann); claims 31-33, and 35-38 were rejected under § 103 over GSA in view of Hermann; and claim 34 was rejected under § 103 over GSA in view of Hermann and Williams.

On page 3 of the Office Action, in paragraph 5, reference was made to U.S. Patent No. 5,204,663 (Lee) in view of U.S. Patent No. 6,057,764 (Williams). Applicant believes that the reference to the Lee and Williams references were inadvertently left in the present Office Action, since the Office Action indicated that Applicant’s previous arguments (against the rejection over Lee and Williams) have been rendered moot in view of the new grounds of rejection issued in the present Office Action. Applicant also notes that the present Office Action provided no explanation or discussion of any obviousness rejection based on the combination of Lee and Williams.

It is respectfully submitted that a *prima facie* case of obviousness has not been established with respect to claim 1 over Gallagher and GSA for at least the following reasons: (1) no motivation or suggestion existed to combine the teachings of Gallagher and GSA; and (2) the references when combined do not teach or suggest *all* elements of the claim. M.P.E.P. § 2143 (8<sup>th</sup> ed., Rev. 3), at 2100-135.

Claim 1 recites a method that includes the following acts:

- assigning information stored on a computer a plurality of clearance levels;
- assigning each smart badge within a set of smart badges one of the clearance levels;
- using a wireless beacon to detect which smart badges are located *within a predefined boundary*;
- identifying a *lowest clearance level* assigned to the smart badges *within the boundary*; and

- providing access to that sub-set of the information having a clearance level no higher than the lowest identified clearance level.

The Office Action conceded that Gallagher does not disclose the identifying and providing acts of claim 1. 1/27/2006 Office Action at 4. The Office Action relied instead on GSA as disclosing these two elements. *Id.*

It is respectfully submitted that the Office Action has incorrectly asserted that GSA discloses the identifying and providing acts of claim 1. Note that claim 1 recites identifying a lowest clearance level assigned to smart badges *within a boundary*. The Office Action cited page 114 of GSA as disclosing such identifying. Page 114 and the subsequent pages after page 114 of GSA refers to various agency profile models that can be used. The model referred to on page 114 of GSA is the small agency model, in which a low level security is employed for a small agency, such as a small division or bureau of a larger agency, or a particular facility within a large organization. Other agency profile models are described in the remaining parts of GSA.

The term “lowest level security” mentioned on page 114 of GSA refers to the security needs of a small agency model. Due to the relatively small size of the small agency, the security needs are low. Page 117 of GSA refers to a campus/metro area agency model that has a higher level security need, followed by a civilian agency model (page 120 of GSA), a commercial agency model (page 125 of GSA), and so forth. There is absolutely no teaching or suggestion whatsoever of identifying a lowest clearance level assigned to smart badges *within a boundary*. The identifying act of claim 1 must be read in context of the previous element of claim 1, which recites using a wireless beacon to detect which smart badges are located within a predefined boundary. The various models described in GSA have nothing to do with detecting which smart badges are located within a predefined boundary and then identifying a “lowest clearance level assigned to the smart badges within the boundary.”

Therefore, it is clear that neither Gallagher nor GSA teaches or suggests at least the identifying and providing acts of claim 1. Therefore, Gallagher and GSA, even if they can be properly combined, do not teach or suggest *all* elements of claim 1. The *prima facie* case of obviousness is thus defective for at least this reason.

Also, a further defect of the obviousness rejection is that no motivation or suggestion existed to combine the teachings of Gallagher and GSA to achieve the claimed subject matter. Gallagher describes cards used by students to access different parts of a school campus. GSA

describes using smart cards for building access control (to access a physical location such as a building, office, etc.) and logical access control (to control access of computer system resources). GSA, p. 5. However, GSA does not provide any suggestion to modify Gallagher to achieve the claimed subject matter, in which a wireless beacon is used to detect which smart badges are located within a predefined boundary, identifying the lowest clearance level assigned to the smart badges within the predefined boundary, and providing access to the sub-set of information having a clearance level no higher than the lowest identified clearance level. Neither Gallagher nor GSA even remotely suggests the desirability of modifying their mechanisms to enable the detection of smart badges within a predefined boundary and identifying a lowest clearance level assigned to the smart badges within the predefined boundary for the purpose of providing access to that sub-set of information having a clearance level no higher than the lowest identified clearance level. *See In re Fritch*, 972 F.2d 1260, 1266, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992) (“The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification.”). Since the teachings of Gallagher and GSA clearly do not provide any suggestion of any desirability to include the subject matter of claim 1, it is respectfully submitted that the *prima facie* case of obviousness is defective for the additional reason that no motivation or suggestion existed to combine the teachings of Gallagher and GSA to achieve the claimed subject matter.

Independent claim 13 is similarly allowable over Gallagher and GSA, which do not teach or suggest using a wireless beacon to detect which smart badges are located within a predefined physical boundary, identifying a lowest clearance level assigned to the smart badges within the boundary, and providing access to that sub-set of the database information having a clearance level no higher than the lowest identified clearance level on a computer located within the predefined physical boundary.

Independent claim 21 is also similarly allowable over Gallagher and GSA, which do not teach or suggest a set of smart badges detected by a first wireless beacon to be within a predefined boundary, a computer located within the boundary, and a system service module for identifying a lowest clearance level assigned to the smart badges within the boundary.

Independent claim 12 is allowable over Gallagher and GSA for similar reasons as stated above. Moreover, claim 12 recites defining those smart badges within the boundary as a set of

visible smart badges, updating the set of visible smart badges in response to a change in smart badge visibility status, and recalculating the lowest clearance level in response to change in smart badge visibility status. The Office Action cited the following passages of Gallagher as disclosing the defining, updating, and recalculating acts: page 2, ¶1; page 2, ¶2; page 4, ¶5. *See* 1/27/2006 Office Action at 6. The two paragraphs on page 2 of Gallagher refer to a school campus providing a number of different types of cards for day students, night students, residents, employees, and volunteers, and activating and deactivating cards. The paragraph on page 4 of Gallagher cited by the Office Action refers to the one-card system providing security for certain areas of the campus, where magnetic-card readers allow the card to be used as an electronic key, and access can be tailored to each individual card. The cited paragraph of Gallagher also refers to security for women's residence halls, university computer room, and telecommunications building. There is absolutely no teaching or suggestion in these cited passages of Gallagher of defining smart badges within a boundary as a set of visible smart badges, updating the set of visible smart badges in response to a change in smart badge visibility status, and recalculating the lowest clearance level in response to the change in smart badge visibility status. Neither Gallagher nor GSA even remotely suggests recalculating a lowest clearance level in response to a change in smart badge visibility status.

Independent claim 20 is allowable for similar reasons as claim 12.

Independent claim 31 was rejected as being obvious over GSA in view of Hermann. As discussed above with respect to the other claims, it is respectfully submitted that the Office Action incorrectly stated that GSA discloses determining a lowest clearance level from among the clearance levels associated with a badges in a predefined region. Based at least on this mis-application of GSA to claim 31, it is respectfully submitted that the obviousness rejection of claim 31 over GSA and Hermann is defective.

The Office Action stated that GSA does not disclose a first wireless beacon as recited in claim 31. 1/27/2006 Office Action at 13. However, the Office Action relied upon Hermann as disclosing this feature, citing specifically to column 12, lines 50-67, and column 6, lines 52-61, of Hermann. Although Hermann does disclose the use of an IR location beacon or an RF beacon, there is no suggestion within Hermann of modifying GSA to achieve the claimed subject matter, namely to use at least a first wireless beacon to communicate with plural badges within a predefined region, each of the plural badges associated with one of plural clearance levels, and

determining a lowest clearance level from among the clearance levels associated with the badges in the predefined region. Therefore, it is respectfully submitted that the hypothetical combination of GSA and Hermann does not teach or suggest all elements of claim 31.

It is also respectfully submitted that no motivation or suggestion existed to combine the teachings of GSA and Hermann to achieve the claimed subject matter. As noted above, GSA fails to disclose the determining act of claim 31. Hermann clearly does not provide any suggestion of a modification of GSA to achieve that claimed elements. Therefore, because no motivation or suggestion existed to combine the teachings of GSA and Hermann, the *prima facie* case of obviousness of claim 31 is defective.

Independent claim 36 is allowable over GSA and Hermann for similar reasons as claim 31.

Dependent claims are allowable for at least the same reasons as corresponding independent claims. In view of the allowability of the base claims over the asserted combinations of references, it is respectfully submitted that obviousness rejections of dependent claims over the asserted combinations of references in view of other references have also been overcome.

Allowance of all claims is respectfully requested. The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 08-2025 (10005248-1).

Respectfully submitted,

Date: 4-27-2006

  
Dan C. Hu  
Registration No. 40,025  
TROP, PRUNER & HU, P.C.  
8554 Katy Freeway, Suite 100  
Houston, TX 77024  
Telephone: (713) 468-8880  
Facsimile: (713) 468-8883